

REMARKS

As suggested by the Examiner, the application has been amended to update the specific reference to a prior application. In the specification, paragraph [0001] has been amended to now include the reference to the U.S. patent from which the present application is a continuation.

Applicants respectfully request reconsideration of the rejection of claims 1-6 under 35 U.S.C. §103(a) as being unpatentable over Dolce, U.S. Patent No. 2,604,842, in view of Kernick, U.S. Patent No. 2,253,434. Applicants have amended claims 1 and 6 to include the patentable feature of the idler sprocket having an axis with the axis of the idler sprocket being aligned with each of the axes of the tubular members. When the axis of the idler sprocket 36 is aligned in this manner, the idler sprocket or gear 36 allows the drive force applied through the chain 208 to be applied against the gear 36 rather than against one of the sprockets 196 of one of the roller tubes 26. For example, the alignment of the axis of the idler sprocket with the axes of the roller tubes sprockets allows the chain to leave the adjacent roller tube sprocket and move in a tangential direction to the idler sprocket, rather than pulling downward against that roller tube sprocket and causing misalignment of the roller tube, wear and tear on its bearing or mounting fitting, and deformation of the housing structure with which the roller tubes are mounted. Such wear, tear, and deformation can allow grease and other fluids to pass into the housing into areas such as the drive assembly. The Dolce reference does not teach or suggest such an arrangement. The idlers 38, as depicted in phantom in Fig. 2 of the Dolce reference, are not aligned with each axis of the rods 26 or of the driving drum portions 30. Moreover, in the Dolce reference, the idlers 36 are located beneath the rollers 30 (the driving drum

portions) which are driven by the belt 50, and the axes of the idlers are not in alignment with the axes of the rollers 28 (the sausage support sections). Therefore, claims 1-6 are seen as being allowable.

Further, newly presented claims 43 and 46 call for the diameter of the idler sprocket to be approximately the same diameter as the roller tube sprockets as seen in Figure 9. This allows for smooth transition and easy alignment of the idler sprocket with the roller tube sprockets. Also, new claims 44, 45, 47, and 48 call for the circumferential edges of the idler sprocket and tube sprockets to be aligned at their tops. This also provides for the drive chain to move smoothly across the roller tube sprockets and the idler sprocket without binding or pulling downwardly on the tube sprockets.

Further, the Dolce reference teaches that an important feature of the device is that it employs rods or rollers that can be readily lifted out or replaced. The Examiner has taken the position that it would have been obvious to incorporate the chain and sprockets of the Kernick reference into the invention of Dolce. However, there is no teaching or suggestion to make this combination or substitution. In particular, even if such a substitution could be made this would completely obviate one of the important features taught in the Dolce reference. For example, assuming a chain and a sprocket could be used in the Dolce device there is no indication, teaching, or suggestion by any of the cited references on how the rods or rollers can be easily lifted or replaced. It would appear that the chain and sprockets would make it difficult to achieve such a result. The Dolce reference teaches away from making such a modification. Such a teaching or suggestion to make the claimed combination and a reasonable expectation of success must both be

found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP Section 2143-Section 2143.03.

Additionally, the Dolce specification refers to idler members by the numeral 36.

Please note that the two members 38 in Dolce have no sprockets and no positive engagement as provided by the chain/sprocket engagement of the claimed invention.

Rather Dolce discloses only a belt. Dolce, column 3, lines 46-56, discloses a roller 54 which is required to be continuously urged against the belt 50 so that there is self-adjusting, constant-tension belt tightening required to effectively move the belt 50.

Applicants' claimed structure requires no such adjusting roller or the like. Applicants' claims provide for a positive engagement chain and sprocket drive, which is a vast improvement over the drive in the Dolce patent. Kernick does not disclose an idler sprocket. Indeed, Kenrick even has a sleeve 19 that must bear against the chain 18 to take out slack.

Claims 2-5, which depend from the base independent claim 1, are allowable for the same reasons put forth for the allowance of claim 1. In view of the amendment to claim 1, the rejection of claims 2-5 should now be withdrawn.

Again, in view of the amendment to claims 1 and 6, the rejection of claims 1-6 under 35 U.S.C. §103(a) should be withdrawn.

Applicants respectfully request reconsideration of the rejection of claim 7 under 35 U.S.C. §103(a) as being unpatentable over Diggity Slant in view of Bardeau et al., U.S. Patent No. 3,472,156. Applicants have amended claim 7 to include the patentable feature of a sealing assembly comprising a bearing member and an annular sealing member comprising an O-ring with the sealing assembly shaped to receive and support

an end of a tubular cooking member. None of the prior alone or in combination teach or suggest such a construction. Also, the Diggity Slant reference does not provide for the tubular members to be arranged as a group at an angle of about 3° to 5° from the first ends of the frame to the second ends of the frame. In the Bardeau et al. reference the tubular members are not horizontally aligned. Rather in Bardeau et al. the tubes themselves are slanted in an angle relative to the housing and frame structure. To the extent that it may be contended that Bardeau et al. discloses an angle of about 3° to 5°, with the tilted mounting of the tubular members in Bardeau et al., a frankfurter or the like mounted on the tubular members slides downwardly by gravity from the higher end to the lower end during the heating process, to bunch up with one another. Bardeau et al. discussed such gravitational descent in column 1, lines 17-19; and column 6, lines 60-67. Diggity Slant does not have such a gravitational feature, but rather has a horizontal alignment of the tubular heating members. There is no teaching or suggestion to incorporate the angles of the tubes in Bardeau et al. with their gravitational force action with the Diggity Slant grill. The operations of the two are entirely different. Further, claim 8, which depends from independent claim 7, is allowable for the same reason. In view of the amendment to claim 7, it is believed that the rejection of claims 7 and 8 under §103(a) may be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over Senneville et al., U.S. Patent No. 6,166,353, in view of Snyder et al., U.S. Patent No. 3,756,219. Applicants by this Amendment have amended claim 9, the base independent claim, to include the features of claim 11. The Examiner has indicated that claim 11 was objected to but would be

allowable if rewritten in independent form. In view this amendment, it is believed that claims 9-12 are now allowable. The rejection of claims 9 and 10 may now be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 13 and 14 under 35 U.S.C. §103(a) as being unpatentable over Berk's Roller Grill in view of Senneville et al., U.S. Patent No. 6,166,353. In making the rejection, the Examiner has failed to show that the combination of these references teaches or suggests that the frame also comprises a cross strut connected to the first track and the second track so that an opening is formed between the tracks, the cross strut and the cover as Applicants have claimed in Claim 13, element (e). Further, the Examiner has not pointed out where in the cited references there is any disclosure or teaching of a pan having walls with structure providing means for engaging the frame to be supported thereby which is also claimed in Claim 13, element (e). Since the Examiner has not set forth a *prima facie* case of obviousness, the rejection of claims 13 and 14 should be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 15-17 under 35 U.S.C. §103(a) as being unpatentable over Dolce in view of Kernick and further in view of Dumas, U.S. Patent No. 2,185,979. Applicants point out that such claims depend from independent claim 6 that has been shown previously to be allowable. Further, with respect to claim 15, the Dumas reference only shows a heating coil 17. The Dumas reference does not disclose a heating element having a wound spiral configuration with the spacing between each of the spiral winds of the heating element being more compact at the areas near the first and second ends of the heating element than in the central part of the heating element as set out in claim 15. In view of the amendment to

claim 6, the rejection of claims 15-17 under 35 U.S.C. §103(a) as being unpatentable over Dolce in view of Kernick and further in view of Dumas should be withdrawn.

Applicants respectfully request reconsideration of the rejection of claims 18-21 under 35 U.S.C. §103(a) as being unpatentable over Senneville et al. in view of Craver, U.S. Patent No. 4,817,585. Applicants have amended claim 18, the base independent claim, to include the patentable feature of the second structure comprising the cover having a rear side with a pin projecting rearwardly therefrom, the pin having a first shaft section, a second enlarged shoulder section of larger diameter than the shaft section, and a third engagement section extending from the shoulder section in a direction away from the shaft. This is the same subject matter that the Examiner has indicated would be allowable with respect to claim 9. Applicants believe that the amendment to claim 18 overcomes the §103(a) rejection. Further, claims 19-21, which depend from claim 18, are allowable for the same reasons. For the above reasons, it is submitted that claims 18-21 are now allowable.

Applicants respectfully request reconsideration of the rejection of claim 22 under 35 U.S.C. §103(a) as being unpatentable over Dolce in view of Kernick and further in view of Snyder et al. and Senneville et al. Applicants have amended claim 22 to include the patentable feature of the pin having a first shaft section, the pin having a second enlarged shoulder section of larger diameter than the shaft section, and the pin having a third engagement section extending from the shoulder section in a direction away from the shaft, the biasing means comprising a spring having a first end and a second end, the spring first end abutting the pin shoulder and the spring second end abutting the cover structure about the second hole, so that the spring biases the pin shoulder in a direction

toward the first hole in the cover structure. Again, this is the same feature that the Examiner indicated would be allowable for claim 9. In view of the amendment to claim 22, it is believed that the rejection of this claim under 35 U.S.C. §103(a) may be withdrawn.

Applicants respectfully request reconsideration of the rejection of claim 23 under 35 U.S.C. §103(a) as being unpatentable over Dolce in view of Kernick and Senneville et al. and further in view of Craver. Applicants have amended claim 23 to include the patentable feature of the idler sprocket having an axis with the axis of the idler sprocket being aligned with each of the axes of the tubular members. None of the cited references teach or suggest such a construction. It is believed that claim 23 is now allowable and the rejection of such claim should be withdrawn.

Applicants respectfully request reconsideration of the rejection of claim 24 under 35 U.S.C. §103(a) as being unpatentable over Dolce in view of Kernick and further in view of Senneville et al. Applicants have amended claim 24 to include the patentable feature of the idler sprocket having an axis and the tubular members each having an axis with each of the axes of the tubular members being aligned with the axis of the idler sprocket. As previously discussed, when the axis of the idler sprocket 36 is aligned in this manner the idler sprocket or gear 36 allows the drive force applied through the chain 208 to be applied against the gear 36 rather than one of the sprockets 196 of one of the roller tubes 26. This arrangement reduces the wear and tear against any bearings used to mount the roller tubes 26 as well as against the roller tubes 26 and their sprockets 196. The Dolce reference does not teach or suggest such an arrangement. The idlers 38, as depicted in phantom in Fig. 2 of the Dolce reference, are not aligned with each of the

axes of the rods 26. Further, claims 25, 26, and 27 depend from independent claim 24.

Since claim 24 has been shown to be allowable, these claims are allowable for the same reasons. In view of the amendments to claim 24, it is suggested that the rejection of claims 24-27 under §103(a) should be withdrawn.

Applicants respectfully request reconsideration of the rejection of claim 28 under 35 U.S.C. §103(a) as being unpatentable over Berk's Roller Grill in view of Senneville et al. and further in view of Bardeau et al. Applicants have amended claim 28 to include the patentable feature of the annular sealing member comprising an O-ring. None of the cited reference alone or in combination teach or suggest such a construction. Further, claims 29-31 which depend from independent claim 28 are allowable for the same reason. In view of the amendment to claim 28, the rejection of claims 28-31 under §103(a) should be withdrawn.

Applicants request reconsideration of the rejection of claims 32-34 as being unpatentable over Berk's Roller Grill in view of Senneville et al. and Bardeau et al. and further in view of Craver. Applicants have amended claim 32 to include the patentable feature of the annular sealing member comprising an O-ring. None of the cited reference alone or in combination teach or suggest such a construction. Further, claims 33-37 which depend from independent claim 28 are allowable for the same reason. In view of the amendment to claim 32, the rejection of claims 32-37 under §103(a) should be withdrawn.

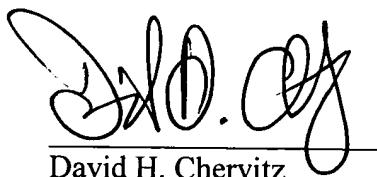
Applicants by this Amendment have added new claims 38-48. Claims 38 and 42 include the patentable feature of the idler sprocket having an axis with the axis of the

idler sprocket being aligned with each of the axes of the tubular members. It is submitted that claims 38-48 are allowable over the cited prior art.

In view of the addition of two new independent claims and 11 new claims in total, enclosed is a check in the amount of \$185, as payment for the new claims. Such total includes the payment for two independent claims at \$43 per independent claim in excess of three as provided for by 37 CFR §1.16(b) and the payment for 11 new claims at \$9 per claim in excess of twenty as provided for by 37 CFR §1.16(c). The Director is hereby authorized to charge any fees required by 37 CFR §1.16(b) and 37 CFR §1.16(c) or credit any overpayment to Deposit Account No. 162201

Applicants submit that upon entry and review of the amended claims and consideration of the above remarks this application should be in condition for allowance. In the event that this application is for any reason not considered by the Examiner to be in form for allowance, Applicants' counsel requests the Examiner to telephone the undersigned before issuing a further action to discuss any objections the Examiner might have, thereby simplifying and expediting the examination and prosecution process.

Respectfully submitted,



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